

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Kimberly Kay Modena v Michael John Modena**
Docket No. **285799**
L.C. No. **07-009670 DM**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The motion to waive fees is GRANTED for this case only. The claim of appeal and motion for continuance are DISMISSED for lack of jurisdiction because the default judgment of divorce was not a final order at the time that the claim was filed. If an appellant files a motion to vacate the default judgment within 21 days of the entry of a final order, the finality of the order is suspended until the trial court denies that motion. An appeal as of right may then be claimed from the final order within 21 days after entry of the order denying the motion. See MCR 7.204(A)(1)(b). A claim of appeal that is filed before the entry of the order denying the motion to vacate is a premature claim.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 25 2008

Date

Sandra Schultz Mengel
Chief Clerk